

REMARKS

In the present Office Action, restriction is required between 30 groups. Applicants respectfully traverse the requirement for restriction and respectfully request reconsideration of the requirement itself.

According to MPEP § 803, there are two criteria for a proper requirement for restriction between patentably distinct inventions:

- (A) The inventions must be independent (see MPEP § 802.01, § 806.04, § 808.01) or distinct as claimed (see MPEP § 806.05-§ 806.05(i)); and
- (B) There must be a serious burden on the examiner if restriction is required (see MPEP § 803.02, § 806.04(a) to § 806.04(i), § 808.01(a), and § 808.02).

According to MPEP 803.04, in order to aid the biotechnology industry in protecting its intellectual property without creating an undue burden on the Office, the Director decided *sua sponte* to partially waive the requirements of 37 CFR 1.141 to permit a reasonable number of such nucleotide sequences to be claimed in a single application. See *Examination of Patent Applications Containing Nucleotide Sequences*, 1192 O.G. 68 (November 19, 1996). It was determined that normally *ten sequences* constitute a reasonable number for examination purposes.

In view of the guidance provided in MPEP 803.04, Applicants respectfully request that the Examiner reconsider the restriction requirement and allow the examination of the hybrid amylases set forth in claims 49-52. To be fully responsive, however, Applicants hereby elect the claims of group 4 (claims 47, 50, 53-68, 71, and 73-78) while reserving the right to prosecute the claims of non-elected groups in future applications.

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Application No.: 10/774,018
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PATENT

Applicants respectfully submit that the present application is in condition for allowance. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided. Favorable consideration and an early notice of allowance are respectfully requested.

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